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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,373	02/28/2002	Maurice Sharp	PALM-3781.US.P	3394
7590	04/26/2005		EXAMINER	
WAGNER, MURABITO & HAO LLP			JASMIN, LYNDIA C	
Two North Market Street, Third Floor			ART UNIT	PAPER NUMBER
San Jose, CA 95113			3627	

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,373	SHARP, MAURICE	
	Examiner	Art Unit	
	Lynda Jasmin	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 January 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-13,15-22 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5-13,15-22 and 24-28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 10, 2005 has been entered.
2. Amendment received January 10, 2005 has been acknowledged.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-13, 15-22 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panofsky et al. (2002/0161476 A1), in view of Nielsen et al. (2002/0099658 A1).

Panofsky et al. discloses a networked software dispensing system having a bus (via USB, IrDA, or parallel port connector), a memory unit (solid state memory) coupled with the bus for storing a software program (such as digital files), a display device (interface screen 11 via 90) coupled with the bus, a communications interface (box 27)

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coupled with the bus for communicating with a portable electronic device (either a laptop or a personal digital assistant), a device for accepting a payment for the software program coupled with the bus (inserting coins, bills, or swiping a credit card), and a processor coupled with the bus for transferring the software program to the portable electronic device in response to the payment (via computer system locating at the vending machine or host terminal, box 46, lines 1-8). The communications interface is a wireless communications interface (box 93).

Panofsky et al further discloses a network interface for communicating with a remote network server (box 47). The remote network server transmits additional software to the network interface for storage on the memory unit (box 32). The network interface communicates a backup configuration of the portable computer system to the remote network server (via uploading large files from the handheld device, box 50, lines 39-44). The display device displays, in conjunction with the backup configuration, an emulated version of the portable computer system (box 50, line 25-38). The remote network server (via central server) archives an inactive software program for the portable computer system (via the online account). The remote network server transmits an updated version of the software program to the portable computer system (box 75).

However, Panofsky et al. fails to explicitly disclose the display device displaying an emulation of the portable computer system.

Nielsen et al. discloses a self-service terminal (such as an ATM) with the concept of the terminal (12) having a display (52) and including means for accessing a mobile

portable (30). The terminal includes portable device emulation means, whereby the terminal is operable to retrieve and display information intended for the portable device [box 43-44].

From this teaching of Nielsen et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the vending and dispensing of digital files with customize display on a screen of Panofsky et al. to include the displaying an emulation of the portable computer system taught by Nielsen et al. in order to retrieve and display information intended for a portable device.

Response to Arguments

5. Applicant's arguments filed January 10, 2005 have been fully considered but they are not persuasive. In response to applicant's argument that "Panofsky does not teach or suggest utilizing a software emulator of any sort, much less displaying an emulation of an operating system used by said portable computer system as recited in claim 1 and similar claims 10 and 20." The Examiner notes that this teaching is taught by Nielsen et al. in order to retrieve and display information intended for a portable device.

6. Applicant's next argues, "Nielsen also fails to teach or suggest displaying an emulation of an operating system used by a portable computer system. Instead, Nielsen teaches an ATM which uses a Wireless Access Protocol browser to emulate the web browser operable on a user's portable device." The examiner notes that Nielsen discloses a self-terminal terminal (here an ATM) where the means for accessing a mobile portal may include a wireless transceiver and a software component, whereby

the software component interfaces with the wireless transceiver and a terminal application, so that the software component retrieves information from the mobile portal and configures the information to a format suitable for presentation on the terminal display by the terminal application.

Moreover, Applicant is reminded that during examination, claims are given their "broadest reasonable interpretation . . ." *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).¹ Thus, the Examiner maintains her interpretations. However, to the extent that the Examiner's definitions are either different from or in dispute with Applicant's definitions (and unless the Examiner expressly noted otherwise), the Examiner hereby adopts the following definitions as the broadest reasonable interpretation and ordinary and accustom meaning in all her claim interpretations:

Web browser. "a client application that enables a user to view HTML documents on the World Wide Web, another network, or the user's computer ... also called browser. See also ActiveX controls, helper application, hyperlink, Internet Explorer, Java applet, Lynx, Mosaic, Netscape Navigator, plug-in." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

One example of Web browser is:

Netscape Navigator. "the most widely used family of web browser programs ... Versions of Netscape Navigator are available for the Windows 3.1, Windows NT and for many varieties of UNIX." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond,

WA, 1997. Thus, it is the Examiner's positions that Web Browser programs are application that are available for operating system (such as Windows 3.1, Windows NT Macintosh platform and for many varieties of UNIX).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shmueli et al. and Kikinis et al. are cited as art of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Increased Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

¹ See also MPEP §2111; *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995); *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985) (en banc).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lynda Jasmin
Primary Examiner
Art Unit 3627

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